



STATE BOARD OF EQUALIZATION

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September 23, 2014

VIA INTERNET

Dear Interested Party:

The Compliance Policy and Procedures Manual (CPPM) is a guide for the Board of Equalization (BOE) staff in administering tax and fee programs. It is available to the public and can be accessed from the BOE web page at <http://www.boe.ca.gov/sutax/staxmanuals.htm>.

The Sales and Use Tax Department (SUTD) is proposing to revise CPPM section 732.100 to clarify the language regarding application of penalty and interest to successor's liability. The revision material is provided on the following pages for the convenience of interested parties who may wish to submit comments or suggestions. Please feel free to publish this information on your website or otherwise distribute it to your association/members.

If you have any comments or suggestions related to the proposed CPPM revision, you may contact the BOE at CPPM.RevisionSuggestions@boe.ca.gov. Your comments or suggestions must be received by BOE no later than **November 24, 2014**, in order to be considered by staff. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Susanne Buehler".

Susanne Buehler, Chief
Tax Policy Division
Sales and Use Tax Department

PENALTY AND INTEREST — SUCCESSOR'S LIABILITY

732.100

The liability incurred by a successor with regard to the purchase of a business or stock of goods includes all amounts incurred by the predecessor, or any former owner, from the operation of the business, including amounts incurred from the sale of the business, even though such amounts may not be determined as of the date of purchase. All tax, interest, and penalties incurred by the predecessor, up to the amount of the purchase price, shall be billed to the successor. Although the successor liability billings are not directly subject to accrual of interest, successors are liable for all the predecessor's tax, penalty, and interest, including interest accrued after the issuance of the notice of successor liability. However, negligence or fraud penalties assessed to the predecessor after the date of purchase will not be due from the successor pursuant to Regulation 1702(b)(d)(2) unless there is a relationship between the successor and the predecessor. Such penalties may be relieved under certain circumstances. (See RTC section 6814 and Regulation 1702.)

Successors seeking relief from penalty under RTC section 6814(b)(2) ~~will be sent Form BOE-193, Request for Relief from Penalty and/or Interest, not Form BOE-735, Request for Relief from Penalty, since interest does not apply to successor billings and must be manually reversed.~~ should be directed to file an online request for relief from penalty on the BOE website. Staff should encourage taxpayers without internet access to visit a district office or another location with internet access to complete the request. However, if these options are not available, staff should provide a Form BOE-193, Request for Relief from Penalty, which is available in ACMS. The taxpayer will also be instructed to return the completed This form should be returned to the district office that handles the taxpayer's account and not to headquarters. ~~Whenever possible, staff should include a self-addressed envelope to ensure that the form is returned to the proper office.~~

~~The collector will~~ Staff will update ACMS with a note to indicate that the taxpayer has either filed an online relief request, or filed ~~upon receipt of~~ a completed ~~Form~~ BOE-193. The ACMS note will include the successor's reasons for making the request. If appropriate, the ~~Form~~ BOE-193 is then approved and signed by the District Administrator or his/her designee. The person approving the form should likewise enter notes in ACMS and send the form to headquarters for processing, which includes further review of the request and adjustment of the penalty ~~and interest~~, if warranted. If the liability has not been petitioned, the ~~Form~~ BOE-193 should be sent to SPSSOB. If the liability has been petitioned or a late protest has been submitted, ~~send~~ the form should be sent to the Petition Section.